

BY-LAWS

NEW YORK BIOTECHNOLOGY ASSOCIATION, INC.

Adopted: June 15, 1993

Amended: April __, 1997

Amended: _____, 2003

Amended : **April, 2011**

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NEW YORK BIOTECHNOLOGY ASSOCIATION, INC.

ARTICLE I: NAME AND SEAL

SECTION 1.1 Name. The name of the corporation is the New York Biotechnology Association, Inc. (hereinafter referred to as the “Association” or the “Corporation”).

SECTION 1.2 Corporate Seal. The corporate seal shall have inscribed thereon the name of the Association, the year of its organization, and words “CORPORATE SEAL” and “NEW YORK”.

ARTICLE II: NATURE OF THE ASSOCIATION

The Association is a Type A, not-for-profit corporation as defined in Section 201 of the Not-For-Profit Corporation Law of the State of New York.

ARTICLE III: MISSION AND OBJECTIVES OF THE ASSOCIATION

SECTION 3.1 Mission. The Association is dedicated to the development and strengthening of the New York based **biotechnology bioscience** related industry and institutions for the purpose of the common good, including but not limited to, improvement in health, agriculture, and the betterment of the quality of life.

SECTION 3.2 Objectives. The objectives of the Association include, but are not limited to, the following:

- (a) To promote cooperative relations among **biotechnology bioscience** related institutions, governmental departments and agencies, organizations and associations;
- (b) To provide assistance to start-up and smaller companies involved in **biotechnology biosciences** and their application through the conduct of informative meetings and seminars for the benefit of Members;
- (c) To provide the opportunity for the exchange of views within the **biotechnology biosciences** community on topics of interest;
- (d) To support efforts designed to attract and develop new **biotechnology bioscience** companies;
- (e) To assist in the development and public understanding for the **biotechnology biosciences** through the dissemination of information;
- (f) To represent the interests of the **biotechnology biosciences** industry in the formulation and initiation of appropriate industry and technical standards;
- (g) To provide the general public with an understanding of the role of **biotechnology biosciences** through the media and community relations efforts;
- (h) To enhance relations between the Membership and the scientific, education, medical, and professional community and its related institutions;
- (i) To encourage education and training in **biotechnology biosciences** and related fields;
- (j) To encourage projects relating to matters of scientific and technical interest in the **biotechnology biosciences**;
- (k) To foster collaborative research among its Members;

(l) To assist Members in seeking funding for undertakings in the **biotechnology biosciences**;

(m) To provide a congenial gathering place for **biotechnology bioscience** related industrial and institutional executives.

ARTICLE IV: DEFINITIONS

SECTION 4.1 **Biotechnology Bioscience Industry.** The “**biotechnology bioscience** industry” shall be defined as any company, institution of higher learning, or research laboratory which carries on activities utilizing, promoting or providing support to the application of biological, **pharmaceutical, medical device, diagnostic and related** sciences.

SECTION 4.2 **Association Year.** The “Association year” shall be defined as the one (1) year period commencing on January 1 and ending on the following December 31.

ARTICLE V: MEMBERSHIP

SECTION 5.1 **Classes.** There shall be four (4) classes of Membership in the Association: Corporate, Institutional, Academic-Scientific/Post-Doctoral Fellow, and Associate. All Memberships are nontransferable.

(a) **Corporate Members.** Any company, partnership, firm, corporation or other organization engaged in or closely related to the **biotechnology biosciences** industry or as providers of goods or services to such entities or to institutions of higher learning may become a Member of the Association. Any employee of a Corporate Member can participate as a non-voting Member of the Association. However, with respect to a subsidiary or other independent

operating unit of another corporation that seeks to be a Member, only that subsidiary or operating unit can be listed as a Member and only employees of that operating unit can participate as non-voting Members who may enjoy all other Membership benefits. Multiple subsidiaries and operating units of a corporation are encouraged to join separately.

(b) Institutional Members. Any institution of higher learning engaged in **biotechnology biosciences** research and/or development may become a Member of the Association. Any employee of the Institutional Member engaged directly or indirectly in **biotechnology biosciences** research and/or development can participate as a non-voting Member of the Association and enjoy all other Membership benefits.

(c) Academic-Scientific/Post-Doctoral Fellow Members. Any individual engaged directly in academic-scientific **biotechnology biosciences** research and/or development, and who is not associated in any way with an Institutional Member, can participate as a non-voting Member of the Association and enjoy all other Membership benefits. Any individual who is a post-doctoral fellow engaged directly in **biotechnology biosciences** research and/or development, and who is not associated in any way with an Institutional Member, can participate as a non-voting Member of the Association and enjoy all other Membership benefits.

(d) Associate Members. Any company, partnership, firm, corporation, institution of higher learning or other organization that: (i) has less than one hundred (100) employees, (ii) maintains no presence in New York State, and (iii) is engaged in or is closely related to the **biotechnology biosciences** industry or as providers of goods or services to such entities or to institutions of higher learning, may become a non-voting Member of the Association.

SECTION 5.2 Voting. Every Corporate and Institutional Member shall be entitled to vote on the basis of one vote per Member. No other Members shall have the right to vote. One, and only one, individual is to be designated by each Corporate and Institutional Member to vote

on matters pending before the Association during each Association year. The individual designated by a Corporate or Institutional Member to vote on behalf of the Member must be identified in writing to the Chair at the commencement of each Association year.

SECTION 5.3 Application for Membership. All applications for Membership shall be made upon forms prepared by the Association and filed with the Association accompanied by a check for any required dues. Applications shall be reviewed by the Executive Director for completeness. The Executive Director will make a recommendation for action on the application to the Board of Directors at the next regularly scheduled meeting of the Board of Directors. Final determination of eligibility for Membership shall, in all cases, rest with the Board of Directors. Membership is a privilege and no entity or individual has a right to Membership by virtue of the entity's or individual's identity, business or research and development activities.

SECTION 5.4 Loss of Membership. A Member may be suspended for a specified period of time or expelled from Association Membership for violation of the By-Laws or any rules of the Association, or for other cause prejudicial to the best interest of the Association. Suspension or expulsion shall be by a two-thirds vote of the Board of Directors. A written statement of the charges shall be mailed by registered mail to the last known recorded address of the Member being charged at least fifteen (15) days before final action is taken thereon accompanied by a notice indicating the time and place the Board of Directors is to take action. The Member shall be given an opportunity to present a defense at the time and place indicated in such notice.

SECTION 5.5 Meetings.

(a) Annual Meeting. The Membership shall hold an Annual meeting each year at a time and place to be determined by the Board of Directors. Members shall receive no less than thirty (30) days prior written notice from the Executive Director as to the time and place of the Annual

meeting of Members. The Chair of the Association shall preside at the Annual meeting of the Members.

(b) Special Meetings. A Special meeting of the Members may be called by the Chair or by at least ten percent (10%) of the voting Members. Members shall receive no less than thirty (30) days prior written notice from the Executive Director as to the time and place of any Special meeting of Members.

SECTION 5.6 Waiver of Notice. Notice of a meeting need not be given to any Member who submits a signed waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him/her.

SECTION 5.7 Quorum. One half of the number of Members, shall constitute a quorum at all meetings. If a meeting is held without a quorum present, the action taken at such meeting shall be deemed legal and binding, the same as if a quorum were present, only if ratified at the next meeting at which a quorum is present.

SECTION 5.8 Use of Proxies. A Member may exercise his/her voting right for a given meeting to another Member upon the presentation to the Chair of a duly executed proxy statement. A Member may cast any vote through the use of a duly executed written proxy delivered to the Chair prior to the time of the meeting.

SECTION 5.9 Participation by Telephone. Any one or more Member may participate in any such meeting by means of a conference call or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. Except as otherwise provided by law or these By-Laws, the vote of the Members present at the time of the vote, if a quorum is present at that time, shall be the act of the Members.

SECTION 5.10 Action by the Members Without a Meeting. Whenever under the Not-For-Profit Corporation Law the Members are required or permitted to take any action by vote, such action may be taken without a meeting if all Members consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consent thereto by the Members shall be filed with the minutes of its proceedings.

ARTICLE VI: BOARD OF DIRECTORS

SECTION 6.1 Composition of the Board of Directors. The Board of Directors (hereinafter sometimes referred to as “Board”) shall be as fully as possible representative of the various **biotechnology bioscience** interests within the Membership of the Association and based on size, location, and organizational purpose. The majority of the Board shall come directly from the **biotechnology biosciences** industry as defined in Article IV.

SECTION 6.2 Number of Directors. The Board of Directors shall consist of the following persons: (i) the elected officers of the Association, (ii) the immediate past Chair, and (iii) as many additional Directors as are necessary to bring the total number including officers to at least twelve (12). The total number of Directors shall be set by resolution of the Board of Directors, which number may be changed from time to time in the discretion of the Board; but, in no case shall the total number of Directors be less than twelve (12).

SECTION 6.3 Qualifications. Directors shall be either: (a) current directors, officers, shareholders, principals, managers, proprietors or employees of any Corporate or Institutional Member of the Association in good standing, (b) former directors, officers, principals, managers or proprietors of any Corporate or Institutional Member of the Association, or (c) a former Director of the Association.

SECTION 6.4 Election and Term. Election of the Board of Directors shall be as provided under Article VIII. Directors shall serve for two (2) years. Except as provided hereinafter, Directors may not serve for more than three (3) consecutive two-year terms; except that any Officer shall be exempt from this term limit for the purpose of completing his/her/her assertion to and rotation through the office of Chair, and for the completion of an additional term on the Board after the expiration of his/her/her term as Chair. ~~At its discretion, the Executive Committee may extend the term of any Board member by one term. If in any given year more than twenty percent (20%) of the Board would be ineligible for re-election as a result of the operation of the term limit set forth herein, the Board of Directors then sitting may decide by majority vote to waive the term limit for one or more Directors for one term, as necessary, so that no more than twenty percent (20%) of the Board be subject to mandatory replacement.~~

SECTION 6.5 Duties. The Board of Directors shall, at all times, have control of the property and affairs of the Association and shall fix its policies. They shall have the power to hold meetings; employ and retain necessary staff and consultants; accept new Members and to suspend and censure Members; authorize proper expenditures; and to take all necessary and proper steps to carry out the purposes and objectives of the Association and promote its best interests, including specifically the following:

(a) The Board shall pass upon and authorize all expenditures of the Association except those which are incurred in the routine or necessary business of the Association, in which case the Board must delegate the authority to a specific individual for such expenditure. All unbudgeted expenses must be approved by the Board of Directors;

(b) The Board may employ and fix salaries for such personnel as it may deem to be required to conduct the business of the Association;

(c) Each year the Board shall require on behalf of the Association a certified public accountant to be retained to examine the books of account and the treasurer's records of the corporation, and to have a certified audit report submitted to the Board at a time specified by the Board;

(d) The Board may pass upon and authorize the Association to render its Members such services as may be deemed proper and advisable by the Board of Directors;

SECTION 6.6 Regular Meetings. The Board of Directors shall hold no less than four (4) regular meetings during the Association year, on the basis of one meeting per calendar quarter, at such time and place as shall be fixed by the Chair or his/her designee who shall be the Executive Director or another Director. Notices for each regular meeting of the Board of Directors shall be issued not less than ten (10) days prior to the time appointed for such meeting.

SECTION 6.7 Special Meetings. Special meetings may be called by the Chair or by at least one-fifth (1/5th) of the Board of Directors. Notices for any special meeting of the Board of Directors shall be issued not less than ten (10) days prior to the time for such meeting and shall state the time, place and purpose for such special meeting.

SECTION 6.8 Waiver of Notice. Notice of a meeting need not be given to any Director who submits a signed waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him/her.

SECTION 6.9 Quorum. One half of the number of Directors on the Board, minus one, shall constitute a quorum at all meetings. If a meeting is held without a quorum present, the action taken at such meeting shall be deemed legal and binding, the same as if a quorum were present, only if ratified at the next meeting at which a quorum is present.

SECTION 6.10 Use of Proxies. A Director may assign his/her voting right for a given meeting to another Director upon the presentation to the Chair of a duly executed proxy statement.

SECTION 6.11 Participation by Telephone. Any one or more Director may participate in any such meeting by means of a conference call or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. Except as otherwise provided by law or these By-Laws, the vote of the Directors present at the time of the vote, if a quorum is present at that time, shall be the act of the Board of Director.

SECTION 6.12 Action by the Board Without a Meeting. Whenever under the Not-For-Profit Corporation Law the Board of Directors is required or permitted to take any action by vote, such action may be taken without a meeting if all Directors consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consent thereto by the Directors shall be filed with the minutes of its proceedings.

SECTION 6.13 Absence. Shall any Director be absent from two (2) consecutive meetings, or from two (2) meetings in any Association Year, without presenting a valid excuse, the Chair may declare a vacancy and proceed to fill the same in the manner hereinafter provided.

SECTION 6.14 Loss of Directorship. A Director may be suspended for a specified period of time or expelled from the Association's Board of Directors for violation of the By-Laws or any rules of the Association, or for other cause prejudicial to the best interest of the Association. Suspension or expulsion shall be by a two-thirds vote of the Board of Directors. A written statement of the charges shall be mailed by registered mail to the last known recorded address of the Director being charged at least fifteen (15) days before final action is taken thereon accompanied by a notice indicating the time and place the Board of Directors is to take

action. The Director shall be given an opportunity to present a defense at the time and place indicated in such notice.

SECTION 6.15 Resignation from the Board. A Director may resign by written notice to the Association. The resignation shall be effective upon receipt thereof by the Association or as such subsequent time as shall be specified in the notice of resignation. Any vacancy so created shall be filled in the manner hereinafter provided.

SECTION 6.16 Survivorship. Directors are elected as individuals not as representatives of Corporate Members except as may be specifically authorized by action of the Board. In the event of a Director terminating his/her ties and/or employment with a Corporate Member, that Director may complete his/her term at the pleasure of the Board.

SECTION 6.17 Vacancies. A vacancy created for any reason other than the normal expiration of term, as defined in these By-Laws, may be filled by a majority vote of the remaining members of the Board of Directors. Upon nomination by the Chair and approval by majority vote of the Board of Directors a vacancy may be filled until the next Annual Meeting of the Members.

ARTICLE VII: OFFICERS

SECTION 7.1 General. The officers of the Association shall consist of a Chair, Executive Director, Vice Chair, Secretary, and Treasurer.

SECTION 7.2 Duties and Obligations of Officers and Executive Directors.

(a) Chair. The Chair shall preside at meetings of the Board of Directors and the Members. The Chair shall present at the Annual Meeting of the Association all reports required by law and such other reports, suggestions or communications as the Chair may deem necessary.

The Chair shall have authority to execute in the name of the Association (1) any document in the ordinary course of business, (2) any document required to deal with an emergency, and (c) any other documents as the Board or Members shall authorize and direct him/her to execute in the name of the Association. The Chair shall be responsible to the Board of Directors and shall answer to them in all matters pertaining to the business of the Association. The Chair shall appoint the Chairs of all committees with the consent and approval of the Board of Directors. These appointments shall be made promptly. The Chair shall perform such other duties as may be designated by the Board or the Members.

(b) Vice Chair. The Vice Chair shall perform the duties of the Chair in the temporary absence of the Chair. The Vice Chair shall assume the office of Chair in the event of the disability of the Chair or the inability of the Chair to serve as determined by a two-thirds majority vote of the Board of Directors. The Vice Chair shall have such other powers and duties as may be properly designated by the Board and the Chair.

(c) Secretary. The Secretary shall keep full minutes of all meetings of the Board in books provided for this purpose. The Secretary shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law. The Secretary shall be the custodian of the records and the Seal of the Corporation and shall affix the corporate Seal to all documents, the execution of which on behalf of the Corporation, under the Seal, is duly authorized by the Board, and when so affixed may attest the same. The Secretary shall have such powers and duties as may be properly designated by the Board and the Chair. The Secretary may delegate any of the above enumerated duties to appropriate Association staff employees, as authorized by the Board of Directors.

(d) Treasurer. The Treasurer shall be responsible for the receipt and deposit of all monies of the Association and their deposit in banks approved by the Board of Directors and to

keep accurate accounts thereof; to make disbursement only upon proper vouchers; to sign checks; to make reports of the finances of the Association annually and whenever requested by the Chair, and, at the end of his/her term, to deliver to his/her successor all books, monies and other property of the Association then in his/her possession. The Treasurer shall invest Association funds as required, established and coordinated policies for investment in pension and other similar trusts, and provide insurance coverage as required. The Treasurer shall have such other powers and duties as may be properly designated by the Board and the Chair. The Treasurer may delegate any of the above enumerated duties to appropriate Association staff employees as authorized by the Board.

(e) Executive Director. The Board shall appoint an Executive Director. The Executive Director shall be the Chief Executive Officer of the Association and shall, subject to the direction of the Board of Directors, supervise the operation of the Association. The Executive Director shall report to the Board of Directors and shall perform such other duties as the Board may designate. The Executive Director shall be an ex officio, non-voting member of the Board.

SECTION 7.3 Qualifications. Officers shall be voting representatives of the Members of the Association in good standing, except in the case of the Executive Director.

SECTION 7.4 Election and Term. Election of officers shall be as provided under Article VIII. Officers shall serve for two (2) years, except as otherwise provided herein, or until his/her successor has been duly elected or appointed and qualified, or until he/she shall have resigned, died or been removed in a manner provided hereinafter. Any two offices may be held by the same person, except that no person shall hold the office of Chair and Secretary concurrently.

SECTION 7.5 Vacancies. Any vacancies in the offices of Vice Chair, Secretary or Treasurer of the Association shall be filled by a majority vote of the remaining Directors, and the officer so elected shall serve until the next Annual Meeting of the Members.

SECTION 7.6 Bonding. The Board of Directors may require, from time to time, that any or all of the officers and employees of the Association shall be bonded.

ARTICLE VIII: ELECTION OF DIRECTORS AND OFFICERS

SECTION 8.1 Nomination of Officers. Thirty (30) days prior to the third-quarter Directors' meeting, the Nominating Committee shall present to the Chair, a slate of nominees, including at least one (1) candidate for each of the offices of Chair, Vice Chair, Secretary and Treasurer. The Chair shall cause such list to be distributed to all officers and Directors at least two weeks prior to the aforementioned meeting. At their third-quarter meeting, the Board of Directors may approve the nominees as selected by the Nominating Committee or may make changes. Any change in the list of nominees shall be made by a two-thirds vote of the Directors present.

SECTION 8.2 Election of Officers. The officers of the Association will be elected by the majority vote of the Directors present at the fourth-quarter meeting of the Board.

SECTION 8.3 Nomination of Directors. Thirty (30) days prior to the Annual Meeting of the Members, the Nominating Committee shall present to the Chair, a slate of nominees, including at least one (1) candidate for all of the Directors whose term expires during the Association year, as well as any vacancies on the Board of Directors which were effected for any reason during the Association year. The Chair shall cause such list to be distributed to all Members at least two weeks prior to the aforementioned meeting. At the Annual Meeting, the Members may approve the nominees as selected by the Nominating Committee or may make

changes. Any change in the list of nominees shall be made by a two-thirds vote of the Members present.

SECTION 8.4_. Election of Directors by Mail Ballot. A ballot setting forth the names of the candidates so nominated, together with space for a write-in candidate for each Directorship may be submitted by the Secretary by mail to every voting Member of the Association in good standing at least thirty (30) days prior to the Annual Meeting. The ballot shall be accompanied with a notice advising the Members that the ballot may be cast by return of the certified ballot by mail for receipt by the Administrative Offices of the Association no later than the date specified on the ballot or by presentation of the ballot at the Annual Meeting of the Members. Any mail ballots received will be counted by the Secretary and the votes therein shall be counted together with the votes of the Members casting their votes in person at the Annual meeting. Election shall be by a plurality of votes.

SECTION 8.5_. Installation of Officers and Directors. The Officers and Directors elected as set forth in this Article shall take office as of the 1st day of January immediately following the date of election. In the case of elections held to fill an immediate vacancy, the Officer or Director so elected shall take office immediately following the election.

ARTICLE IX: STANDING COMMITTEES

SECTION 9.1 Rules Governing Committees. Standing Committees shall be created by a two-thirds vote of the Board of Directors. Standing Committees shall serve for periods of one year or until their successors are appointed. A majority of any committee shall constitute a quorum for the transaction of business. Committee meetings shall be called by the Chair or Vice Chair, or their designee. No committee shall have the power to:

- (a) to fill vacancies in the Board of Directors or any committee;
- (b) to fix compensation of Directors for services on the Board of Directors or any committee;
- (c) to repeal, amend or adopt By-Laws;
- (d) to amend or repeal any Board resolution which does not, by its terms, make it amendable or repealable by such committee; or
- (e) to remove or fix compensation of Officers who were elected or appointed by the Board of Directors.

SECTION 9.2 Membership on Committees. Only voting Members may be appointed to voting membership and as chair of committees. No such restriction is placed on the non-voting or advisory membership of committees. The Board of Directors shall appoint the chair and all members of standing and any special committees annually, in accordance with these By-Laws.

SECTION 9.3 Standing Committees of the Board. The following shall be standing committees of the Board of Directors:

(a) Executive Committee. An Executive Committee of the Board shall be organized to serve as the policy and coordinating committee of the Board between its regularly scheduled meetings. The Executive Committee shall be comprised of the officers of the Association and at least three (3) other Directors to broadly reflect the geographic distribution of the Members. The Chair will present a slate of nominees for majority approval of the Board. Their term and procedures will be set in accordance with Section 9.1 of this Article. The Executive Committee shall give direction to the Executive Director and act on all matters requiring immediate attention between meetings of the Board and evaluate the performance of the Executive Director annually and report to the full Board. The Executive Committee shall approve the corporate budget for presentation to the Board and generally possess all powers of the Board of Directors and exercise

all duties of the Board which, in the opinion of a majority of the Executive Committee, is necessary or desirable to be taken before the next regular meeting of the Board of Directors. The said Executive Committee shall have no authority to act with respect to the powers and duties of the Nominating Committee or the removal, election or appointment of officers or directors.

(b) Nominating Committee. Not later than the second-quarter meeting of the Board each year, the Chair shall appoint a Nominating Committee consisting of three (3) non-officer Directors. The Nominating Committee shall have the duty to nominate candidates for election to fill vacancies on the Board of Directors and as Officers of the Corporation.

SECTION 9.4 Special Committees. The Board of Directors may designate additional committees, each of which shall consist of at least three (3) members. Such committees shall have such authority as is provided in the resolution designating the committee.

SECTION 9.5 Meetings. Meetings of committees, of which no notice is necessary, shall be held at such time and place as shall be fixed by the respective committee chair, or by vote of a majority of all of the members of the committee. Written minutes of the proceedings of all meetings of each committee shall be kept by a member appointed by the committee chair.

SECTION 9.6 Participation by Telephone. Any one or more committee members may participate in any such meeting by means of a conference call or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. Except as otherwise provided by law or these By-Laws, the vote of the members present at the time of the vote, if a quorum is present at that time, shall be the act of the committee.

SECTION 9.7 Action by a Committee Without a Meeting. Whenever under the Not-For-Profit Corporation Law a committee is required or permitted to take any action by vote, such action may be taken without a meeting if all of its members consent in writing to the adoption of

a resolution authorizing the action. The resolution and the written consent thereto by the committee members shall be filed with the minutes of its proceedings.

ARTICLE X: FINANCIAL

SECTION 10.1 Fiscal Year. The fiscal year of the Association shall run from July 1 to the following June 30.

SECTION 10.2 Dues. The annual dues for all classes of Membership in the Association shall be set by the consent of a majority of the votes cast by the Board of Directors and remain in effect until such time as the Board of Directors shall vote a change.

SECTION 10.3 Failure to Pay Dues. When any Member of the Association shall have failed to pay his/her dues within thirty (30) days after due, a second notice will be mailed to the Member. If the dues remain unpaid and are not brought current in a timely fashion, Membership will be suspended. Expired Memberships will be reported to the Board of Directors at the next regular meeting.

ARTICLE XI: CONFLICTS OF INTEREST

SECTION 11.1 Definition of Conflicts of Interest. A conflict of interest will be deemed to exist whenever an individual is in the position to approve or influence Association policies or actions which involve or could ultimately harm or benefit financially, directly or indirectly: (a) the individual; (b) any member of his/her immediate family (spouse, parents, children, brothers or sisters, and spouses of these individuals); or (c) any organization in which he/she or an immediate family member is a director, trustee, officer, member, partner or more than 10%

shareholder. Service on the board of, or employment with, another not-for-profit Corporation does not automatically constitute a conflict of interest.

Section 11.2 Disclosure of Conflicts of Interest. A Director or officer shall disclose a conflict of interest: (a) prior to voting on or otherwise discharging his/her duties with respect to any matter involving the conflict which comes before the Board of Directors or any committee; (b) prior to entering into any contract or transaction involving the conflict; (c) as soon as possible after the Director or officer learns of the conflict; and (d) on the annual conflict of interest disclosure form. The Secretary of the Association shall distribute annually to all Directors and officers, a form soliciting the disclosure of all conflicts of interest, including specific information concerning the terms of any contract or transaction with the Association and whether the process for approval set forth in Section of this Article was used.

Section 11.3 Approval of Contracts and Transactions Involving Potential Conflicts of Interest. A Director or officer who has or learns about a potential conflict of interest should disclose promptly to the Secretary of the Association the material facts surrounding any actual or potential conflict of interest, including specific information concerning the terms of any contract or transaction with the Association. All effort should be made to disclose any such contract or transaction and have it approved by the Board before the arrangement is entered into.

Following receipt of information concerning a contract or transaction involving a potential conflict of interest, the Board of Directors, upon the review and recommendation of the Executive Committee, shall consider the material facts concerning the proposed contract or transaction including the process by which the decision was made to recommend entering into the arrangement on the terms proposed. The Board of Directors shall approve only those

contracts or transaction in which the terms are fair and reasonable to the Association and the arrangements are consistent with the best interests of the Association. Fairness includes, but is not limited to, the concepts that the Association shall pay no more than fair market value for any goods or services which the Association receives and that the Association should receive fair market value consideration for any goods or services that it furnishes others. The Board of Directors shall set forth the basis for its decision with respect to approval of contracts or transactions involving conflicts of interest in the minutes of the meeting at which the decision is made, including the basis for determining that the consideration to be paid is fair to the Association.

Section 11.4 Validity of Actions. No contract or other transaction between the Association and one or more of its Directors or officers, or between the Association and any other Association, firm, association or other entity in which one or more of its Directors or officers are Directors or officers, or have a substantial financial interest, shall be either void or voidable for this reason alone or by reason alone that such Director or Directors or officer or officers are present at the meeting of the Board of Directors, or of a committee thereof, which authorizes such contract or transaction, or that his/her or their votes are counted for such purpose, if the material facts as to such Director's or officer's interest in such contract or transaction and as to any such common Directorship, officership or financial interest are disclosed in good faith or known to the Board or committee, and the Board or committee authorizes such contract or transaction by a vote sufficient for such purpose without counting the vote or votes of such interested Director or officers. Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or committee which authorizes such contract or transaction. At the time of the discussion and

decision concerning the authorization of such contract or transaction, the interested Director or officer should not be present at the meeting.

Section 11.5 Employee Conflicts of Interest. An employee of the Association with a potential conflict of interest in a particular matter shall promptly and fully disclose the potential conflict to the President and Chief Executive Officer. The employee shall thereafter refrain from participating in deliberations and discussions, as well as any decisions, relating to the matter and follow the direction of the President and Chief Executive Officer as to how the Association decisions which are the subject of the conflict will be determined. The Chair, based upon the review and recommendation of the Executive Committee, shall be responsible for determining the proper way for the Association to handle Association decisions which involve unresolved employee conflicts of interest. In making such determinations, the Chair may consult with legal counsel.

ARTICLE XII: INDEMNIFICATION

SECTION 12.1 Generally. Each person who was or is made a party to or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a “proceeding”), by reason of the fact that he/she or his/her testator or intestate (a) is or was a Director or officer of the Association or (b) is or was a Director or officer of the Association who serves or served, in any capacity, any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise at the request of the Association (hereinafter an “indemnitee”), shall be indemnified and held harmless by the Association against all expense, liability and loss, including ERISA excise taxes or

penalties, judgments, fines, penalties, amounts paid in settlement (provided the Board of Directors shall have given its prior consent to such settlement, which consent shall not be unreasonably withheld by it) and reasonable expense, including attorneys' fees, suffered or incurred by such indemnitee in connection therewith and such indemnification shall continue as to an indemnitee who has ceased to be a Director or officer and shall inure to the benefit of the indemnitee's heirs and fiduciaries; provided, however, that no indemnification may be made to or on behalf of any Director or officer if his/her acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated or otherwise disposed of, or he/she personally gained in fact a financial profit or other advantage to which he/she was not legally entitled.

SECTION 12.2 Advancement of Expenses. All expenses reasonably incurred by an indemnitee in connection with a threatened or actual proceeding with respect to which such indemnitee is or may be entitled to indemnification under this Article shall be advanced to him/her or promptly reimbursed by the Association in advance of the final disposition of such proceeding, upon receipt of an undertaking by him/her or on his/her behalf to repay the amount of such advances, if any, as to which he/she is ultimately found not to be entitled to indemnification or, where indemnification is granted, to the extent such advances exceed the indemnification to which he/she is entitled. Such person shall cooperate in good faith with any request by the Association that common counsel be used by the parties to an action or proceeding who are similarly situated unless to do so would be inappropriate due to an actual or potential conflict of interest.

SECTION 12.3 Contractual Article. The rights conferred by this Article are contract rights which shall not be abrogated by any amendment or repeal of this Article with respect to events occurring prior to such amendment or repeal and shall, to the fullest extent permitted by

law, be retroactive to events occurring prior to the adoption of this Article. No amendment of the Not-for-Profit Corporation Law, insofar as it reduces the permissible extent of the right of indemnification of an indemnitee under this Article, shall be effective as to such person with respect to any event, act or omission occurring or allegedly occurring prior to the effective date of such amendment irrespective of the date of any claim or legal action in respect thereto. This Article shall be binding on any successor to the Association, including any corporation or other entity which acquires all or substantially all of the Association's assets.

SECTION 12.4 Non-exclusivity. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which any person covered hereby may be entitled other than pursuant to this Article. The Association is authorized to enter into agreements with any such person providing rights to indemnification or advancement of expenses in addition to the provisions therefor in this Article, and the Association's members and its Board of Directors are authorized to adopt, in their discretion, resolutions providing any such person with any such rights.

SECTION 12.5 Insurance. The Association may maintain insurance, at its expense, to protect itself and any Director, officer, employee or agent of the Association or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Association would have the power to indemnify such person against such expense, liability or loss under this Article or applicable law.

SECTION 12.6 Indemnification of Employees and Agents of the Association. The Association may, to the extent authorized from time by the Board of Directors, grant rights to indemnification and the advancement of expenses to any employee or agent of the Association with the same scope and effect as provided in this Article to Directors and officers of the Association.

ARTICLE XIII: AMENDMENTS TO BY-LAWS

SECTION 13.1. The By-Laws of the Association may be amended at any time by the Board of Directors in accordance with the provisions of Section 13.2 of this Article.

SECTION 13.2. Proposed By-Laws amendments shall be presented in writing to each member of the Board of Directors twenty days in advance of a regularly scheduled Board of Directors meeting. Adoption of proposed amendments requires a two-thirds vote of the Board of Directors when a quorum is present at a regularly scheduled board meeting.

ARTICLE XIV: CONSTRUCTION

If there is any conflict between the provisions of the Certificate of Incorporation and these By-Laws, the provisions of the Certificate of Incorporation shall govern. As used herein, the masculine, feminine and neuter gender each include the other where the context indicates.